

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 246

**Introduced by Assembly Member ~~Members~~ Roger Hernández and
Salas**

February 9, 2015

An act to amend Section 422.55 of the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL’S DIGEST

AB 246, as amended, Roger Hernández. Hate crimes: peace officers.

Existing law defines “hate crime” as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation. Under existing law, that definition applies unless an explicit provision of law or the context clearly requires a different meaning. Existing law provides punishments for hate crimes that range from misdemeanors with specified penalties to felonies with additional terms of one to 3 years in state prison, depending on the underlying criminal act and other circumstances. Existing law requires, with conditions, the Attorney General to direct local law enforcement agencies to report specified information relative to hate crimes to the Department of Justice. Existing law requires the department to annually submit a report to the Legislature that analyzes the results of information obtained from local law enforcement pursuant to these provisions. Local law enforcement entities are required by existing law to provide a brochure on hate crimes to victims of these crimes and to the public, and the Department of Fair Employment and Housing is required by

existing law to revise those brochures as needed and to provide those brochures to local law enforcement agencies upon request.

This bill would further define “hate crime” to include the assassination, *rape, or kidnapping*, or attempted assassination, *rape, or kidnapping*, of a peace ~~officer~~ *officer, when the offense was knowingly committed because of the victim’s status as a peace officer, or of an immediate family member of a peace officer, when the offense was knowingly committed because of the victim’s status as an immediate family member of a peace officer*. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. By expanding the information that law enforcement agencies are required to report to the Department of Justice and by expanding the number of victims to whom a brochure must be provided, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 422.55 of the Penal Code is amended to
- 2 read:
- 3 422.55. For purposes of this title, and for purposes of all other
- 4 state law unless an explicit provision of law or the context clearly
- 5 requires a different meaning, the following shall apply:
- 6 (a) “Hate crime” means a criminal act committed, in whole or
- 7 in part, because of one or more of the following actual or perceived
- 8 characteristics of the victim:
- 9 (1) Disability.
- 10 (2) Gender.
- 11 (3) Nationality.
- 12 (4) Race or ethnicity.

1 (5) Religion.

2 (6) Sexual orientation.

3 (7) Association with a person or group with one or more of these
4 actual or perceived characteristics.

5 (b) “Hate crime” includes, but is not limited to, a violation of
6 Section 422.6.

7 (c) (1) “Hate crime” also means the assassination, *rape, or*
8 *kidnapping*, or attempted assassination, *rape, or kidnapping*, of a
9 ~~peace-officer~~ *officer, when the offense was knowingly committed*
10 *because of the victim’s status as a peace officer, or of an immediate*
11 *family member of a peace officer, when the offense was knowingly*
12 *committed because of the victim’s status as an immediate family*
13 *member of a peace officer.*

14 (2) For the purposes of this subdivision, the following terms
15 have the following meanings:

16 (A) “Assassination” means murder, as defined in Section 187,
17 ~~when the victim and the defendant have not had a professional or~~
18 ~~personal encounter.~~ 187.

19 (B) “Immediate family member” means a spouse or domestic
20 partner, parent, or child of a peace officer.

21 ~~(B)~~

22 (C) “Peace officer” means any person designated as a peace
23 officer pursuant to Chapter 4.5 (commencing with Section 830)
24 of Title 3 of Part 2.

25 SEC. 2. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution for certain
27 costs that may be incurred by a local agency or school district
28 because, in that regard, this act creates a new crime or infraction,
29 eliminates a crime or infraction, or changes the penalty for a crime
30 or infraction, within the meaning of Section 17556 of the
31 Government Code, or changes the definition of a crime within the
32 meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 However, if the Commission on State Mandates determines that
35 this act contains other costs mandated by the state, reimbursement
36 to local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

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